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Cases, Regulations and Statutes

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CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

ANIMALS

LLAMAS. The plaintiff was hired by the defendants to care for their animals, including a llama, on their farm. The plaintiff had help care for the llama prior to this time and testified that the llama would act aggressively toward the plaintiff. The accident occurred when the plaintiff was attempting to clean the animal area and the llama attacked the plaintiff and caused injuries. The plaintiff sued for recovery under theories of ordinary negligence and violation of the Illinois Animal Control Act, 510 ILCS 5/16. The trial court granted summary judgment to the defendants based on the assumption of the risk by the plaintiff. The plaintiff appealed as to the count of negligence only. The court noted that the assumption of risk defense negated the need to show that the defendants knew of the llama's aggressive behavior. The appellate court affirmed the trial court's grant of summary judgment because there was sufficient evidence that the plaintiff knew about the aggressive behavior of the llama when the plaintiff entered the llama's enclosure. **Edwards v. Lombardi, 2013 Ill. App. LEXIS 806 (Ill. Ct. App. 2013)**.

BANKRUPTCY

GENERAL

AUTOMATIC STAY. The debtor had filed for Chapter 12 and received permission under an agreement with the secured bank to use cash collateral to pay property taxes in 2008. Under the cash collateral agreement, the bank was to release its lien on the collateral, cattle, harvested crops, and future crops. The court approved the cash collateral agreement but the bank failed to promptly execute the release. When the debtor sought financing for the 2011 crop, a new lender refused to make the loan with the bank's crop lien still active. By the time the debtor notified the bank that the lien was not released and the bank released the lien, it was too late for proper application of fertilizer and weed control for the 2011 crop. The debtor filed a motion for damages resulting from the failure of the bank to release its lien, arguing that failure to release the lien was a violation of the automatic stay. The court found that the bank had reasonable justifications for failing to timely release the lien in that the bank was in the process of taking over the operations of the original bank which failed during the bankruptcy and the bank staff did not know that the debtor needed the release within a certain time. The court held that the failure to promptly release the lien was not a violation of the automatic stay. On appeal the appellate court affirmed noting that, although the Bankrutpcy Court had approved the cash collateral agreement, the court order did not specifically order the bank to release the lien within a certain amount of time. ***In re* Fischer, 2013 Bankr. LEXIS 4866 (Bankr. 8th Cir. 2013), *aff'g*, 2013 Bankr. LEXIS 2650 (Bankr. D. Neb. 2013)**.

CHAPTER 12

ELIGIBILITY. The debtor wholly-owned three corporations, one which maintained the farming operations and one which operated a pheasant raising and hunting activity on farm land owned by the third corporation. The debtor and the corporations filed for Chapter 12 and a creditor objected, arguing that the income from the hunting operation did not qualify as farm income and that the majority of the debtors' debts were not related to farming. The debtor's farm originally consisted of 3000 acres of crop land and a dairy. As part of a divorce property settlement, the debtor sold some of the property. Due to losses from the crop and dairy operation, the debtor placed much of the land in the Conservation Reserve Program and used the land in a pheasant hunting and clay shooting business operated by one of the corporations. The debtor raised the pheasants to be released on the land for a hunting (called by the debtor as pheasant harvesting) business. The remainder of the land was used to grow vegetables and fruit. The debtor conceded that the clay shooting business income was not farming income for purposes of Chapter 12 but argued that the pheasant hunting, called by the debtor as pheasant harvesting, business did produce farming income. The court adopted a totality of the circumstances test to determine whether an activity is farming for Chapter 12 purposes. The court held that the raising of pheasants for release for hunting was a farming operation and the income from the operation was farming income for purposes of Chapter 12. The court held that the corporation owning the land in the CRP was not eligible for Chapter 12 because none of the income from the CRP acres was subject to the risk of business operations. However, the CRP income which was paid to the individual debtor was included in farm income. Although the court held that the individual debtor satisfied the farm income requirements, the court held that the debtor did not meet the farm debt requirement. The debtor sought to include the mortgage on the farm residence but did not provide any evidence to support the claim other than to testify that a portion of the home was used as a farm office. Therefore, the court excluded the mortgage from the amount of farm debt and the individual debtor failed to qualify for Chapter 12 because the farm debts did not exceed 50 percent of the total debts. ***In re* Acee, 2013 Bankr. LEXIS 4789 (Bankr. N.D. N.Y. 2013)**.

PLAN. The debtor had filed a prior Chapter 12 case which was dismissed for lack of a confirmable plan. In the current case, the debtor had filed several amended plans and the creditors sought dismissal of the case for lack of a confirmable plan. The debtor's last plan provided for liquidation of some farm property and payments from projected income. However, the court found the projections inconsistent with the debtor's farm history of continual losses. In addition, the court found that the debtor failed to provide sufficient information about personal loans from family members, amounts of crop insurance and the effect of the changes to the farm operation on farm profits. Thus, the court held that the debtor's plan was not confirmable because the debtor failed to demonstrate that the debtor could make plan payments. The court ordered the case dismissed without prejudice. **In re Pressley, 2013 Bankr. LEXIS 4878 (Bankr. D. S.C. 2013)**.

The debtor's Chapter 12 plan provided for periodic payments to the Chapter 12 trustee for creditors and for direct payments to the Farm Service Agency (FSA) on a secured claim. The trustee filed a motion to dismiss the case for failure to make plan payments. After the trustee and FSA presented evidence of the overdue payments, the Bankruptcy Court offered the debtor the chance to convert the case to Chapter 7 or the court would grant the motion to dismiss. After the debtor filed to convert the case, the Chapter 12 case was dismissed for failure to make plan payments. On appeal, the debtor did not challenge the findings of failure to make the payments but raised issues of misconduct by the debtor's attorney and court officers during the bankruptcy case. The appellate court held that it did not have jurisdiction to rule on such issues which were not raised during the confirmation process; therefore, the dismissal of the case was affirmed. **Day v. Trustee Richard M. Sterns, 2013 U.S. Dist. LEXIS 150452 (E.D. N.C. 2013)**.

USE OF ESTATE PROPERTY. The debtors were long-time successful dairy farmers who purchased a dairy in Iowa using a bank loan secured by a blanket security interest in the debtors' property. The debtors ran into financial difficulties from disease and stray voltage and defaulted on the loan obligations. The debtors sought to obtain a new loan from another bank to construct a rotational grazing facility and waste storage facility. The loan was for a short term and was expected to be paid off by a federal grant for the same amount. The waste facility contractor was required to post a performance bond when construction commenced. The original bank creditor objected to the new loan because the new bank required a priority security interest in the debtors' property and the creditor was undersecured. The debtors argued that the new projects provided adequate protection because they would increase the value of the debtors' property and the loan was protected by the grant and the contractor's performance bond. The Bankruptcy Court agreed, holding that the new funding was well protected, was short in duration and would add value to the original creditor's collateral; therefore, the original bank's loan was adequately protected by the plan. ***In re* Vander Vegt, 2013 Bankr. LEXIS 4354 (Bankr. N.D. Iowa 2013)**.

FEDERAL TAX

EXEMPTIONS

ANNUITY. The debtor purchased an IRA annuity with funds rolled over from a tax-qualified IRA which would have qualified for a bankruptcy exemption. The debtor listed the annuity as exempt property under Section 522(b)(3)(C) but the trustee objected to the exemption. The court held that the annuity was eligible for the exemption because it complied with I.R.C. § 408(b) and early withdrawals were subject to penalties imposed by the IRS. ***In re* Miller, 2013-2 U.S. Tax Cas. (CCH) ¶ 50,587 (8th Cir. 2013)**.

FEDERAL FARM PROGRAMS

NO ITEMS.

FEDERAL ESTATE AND GIFT TAXATION

ALLOCATION OF BASIS FOR DEATHS IN 2010. The decedent died in 2010 and the executor retained an accountant to advise on estate tax matters including the necessity to file a Form 8939, *Allocation of Increase in Basis for Property Acquired from a Decedent*. The accountant prepared the Form 8939 for the estate, but failed to properly advise the personal representative of the proper way to mail Form 8939 to ensure timely filing before the deadline of January 17, 2012. Consequently, the personal representative failed to timely file Form 8939 and failed to make a I.R.C. § 1022 Election for Decedent's estate. The estate requested an extension of time pursuant to Treas. Reg. § 301.9100-3 to file the Form 8939 to make the I.R.C. § 1022 election and to allocate basis provided by I.R.C. § 1022 to eligible property transferred as a result of the decedent's death. *Notice 2011-66, 2011-2 C.B. 184 section I.D.1*, provides that the IRS will not grant extensions of time to file a Form 8939 and will not accept a Form 8939 filed after the due date except in four limited circumstances provided in section I.D.2: "Fourth, an executor may apply for relief under § 301.9100-3 in the form of an extension of the time in which to file the Form 8939 (thus, making the Section 1022 election and the allocation of basis increase), which relief may be granted if the requirements of § 301.9100-3 are satisfied. The IRS granted an extension of time to file the election. **Ltr. Rul. 201345001, Aug. 8, 2013.**

MARITAL DEDUCTION. The decedent established a revocable living trust which became irrevocable upon the death of the decedent. In addition, by the trust terms, if the decedent's spouse survived the decedent, the trust was to be terminated and the trustee was directed to distribute outright and free of trust to the surviving spouse an amount determined by reference to the amount of property disposed of by the trust that exceeded the largest amount, if any, that could pass free of federal estate tax by reason of the unified credit and the state death tax credit allowable to the decedent's estate, after taking into account certain property passing outside of the trust and certain other debts, expenses, and charges. The remainder of the trust was to be distributed to a new trust for the surviving spouse, with the remainder interests held by the decedent's children in equal shares. An amount was distributed directly to the spouse and the rest was distributed to the marital trust. The assets of the marital trust were listed on Schedule M of Form 706, creating a QTIP election for those assets. The executor sought a ruling that the QTIP election was null and void because it was not needed to reduce the federal estate tax to zero. The IRS ruled that the QTIP election was null and void and disregarded because it was not needed to reduce the federal estate tax to zero. **Ltr. Rul. 201345006, Aug. 5, 2013**.

FEDERAL INCOME TAXATION

ACCOUNTING METHOD. The taxpayer hired an accounting firm to prepare and file Form 3115, Application for Change in Accounting Method, to automatically change the method of accounting to deduct repair and maintenance costs not required to be capitalized under I.R.C. § 263(a). The taxpayer's Forms 3115 were filed with its timely filed federal income tax returns. The taxpayer also timely filed copies of its Forms 3115 with the IRS in Ogden, Utah as required by section 3.06(3) in the Appendix to *Rev. Proc. 2011-14, 2011-1 C.B. 330*. In addition, the taxpayer requested and received District Director consent prior to the filing of its 2011 U.S. federal income tax return, as required by section 6.03(4) in the Appendix to *Rev. Proc. 2011-14*, and provided a copy to the IRS Exam team. The taxpayer requested the accounting firm to file copies of the properly completed Form 3115 with the IRS National Office no earlier than the first day of the year of change and no later than the date on which the taxpayer filed its federal income tax return for the year; however, the firm inadvertently failed to file Form 3115 with the IRS National Office by the "due date." The IRS granted an extension of time to file Form 3115 with the IRS National Office. **Ltr. Rul. 201344003, July 23, 2013**.

BUSINESS EXPENSES. The taxpayers, husband and wife, purchased a single-family house in 2008 with the intent to rent the house. The taxpayer made repairs and incurred expenses for the house but did not rent the house in 2008. The house was not rented until March of 2009 after further improvements were made to comply with federal HUD requirements so that the renter could rent the house under Section 8 of the United States Housing Act of 1937. The taxpayers filed a Schedule E with their 2008 income tax return, claiming deductions for repairs and expenses relating to the house. On the taxpayers' 2009 return, they listed March 2009 as the date the house was placed in service for depreciation purposes. The IRS disallowed the 2008 Schedule E deductions as capital expenses. The court looked at the issue of whether the repairs and expenses were incurred as part of an active trade or business when the expenses were incurred. The court examined three factors: (1) whether the taxpayers undertook the activity intending to earn a profit; (2) whether the taxpayers are regularly and actively involved in the activity; and (3) whether the taxpayers' activity has actually commenced. The parties stipulated that the taxpayers met the first factor. The court found that the taxpayer had not actively tried to rent the property in 2008 because there was no evidence of advertising, no renters interviewed and the main activity was the repair of the house. The court also found that the house was not ready for renting in 2008 because the taxpayers had to perform additional repairs in 2009 before the Section 8 renter could rent the house. In addition, the taxpayers claimed the house as placed in service in March 2009, the month in which the renter began renting the house, on their federal tax return. The court held that the 2008 repairs and expenses were start-up expenses required to be added to the basis of the house and deducted as part of the depreciation deductions. **Jordan v. Comm'r, T.C. Summary Op. 2013-91**.

CHARITABLE DEDUCTION. The taxpayer was a partnership which owned an LLC, a disregarded entity for federal tax purposes, which owned a portion of a historical building. The taxpayer purchased the office floors of the building, leaving the residential floors to be owned by unrelated parties. Under an amended ownership agreement with all owners of the building, the taxpayer was determined to be the owner of the facade of the building, consisting of two sides of the building which faced public streets. However, the agreement also required the owner of the facade to obtain the approval of other owners for any change to the facade. The taxpayer granted a "Conservation Deed of Easement" in the property to the National Architectural Trust, Inc. (NAT). The easement terms required the taxpayer to obtain prior written consent from the NAT before making any change to the "Protected Facades", which included "the existing facades on the front, sides and rear of the Building and the measured height of the Building." The taxpayer claimed a $10 million charitable deduction for the grant of the facade easement. The taxpayer argued that its obligation to maintain the entire facade gave rise to a property right in the facade. The court disagreed and held that the easement covering was not eligible for a charitable deduction because the taxpayer did not have ownership rights to the entire exterior of the building. **61 York Acquisition, LLC v. Comm'r, T.C. Memo. 2013-266**.

DEPRECIATION. The taxpayer was a subsidiary corporation in an affiliated group of corporations. The taxpayer engaged a certified public accounting firm to prepare the taxpayer's federal income tax return and advise the taxpayer with respect to all relevant elections for the taxable year. Relying on advice from the certified public accounting firm, the taxpayer decided to make the election not to deduct the additional first year depreciation deduction under I.R.C. § 168(k). However, the certified public accounting firm did not advise the taxpayer that an election statement was required to be included with the federal income tax return in order to make a valid election not to deduct the additional first year depreciation. Thus, the taxpayer's return did not include the statement and the taxpayer requested an extension of time to file the statement. The IRS granted the extension. **Ltr. Rul. 201344006, Aug. 1, 2013**.

DISASTER LOSSES. On October 22, 2013, the President determined that certain areas in Kansas are eligible for assistance from the government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121) as a result of severe storms, tornadoes and flooding which began on July 22, 2013. **FEMA-4150-DR**. On October 29, 2013, the President determined that certain areas in New Mexico are eligible for assistance from the government under the Act as a result of storms and flooding which began on September 9, 2013. **FEMA-4152-DR**. On October 29, 2013, the President determined that certain areas in North Carolina are eligible for assistance from the government under the Act as a result of severe storms and flooding which began on July 27, 2013. **FEMA-4153-DR**. On October 31, 2013, the President determined that certain areas in North Dakota are eligible for assistance from the government under the Act as a result of a severe winter storm which began on October 4, 2013. **FEMA-4154-DR**. Accordingly, taxpayers in the areas may deduct the losses on their 2012 federal income tax returns. See I.R.C. § 165(i).

HOBBY LOSSES. The taxpayers, husband and wife, participated in a RV tour guide activity in which the taxpayers worked with a tour company to guide RV owners on tours in the U.S. and Mexico. The taxpayers reported income and expenses on Schedule C, incurring primarily net losses in each year. The court held that the taxpayers did not engage in the activity with the intent to make a profit because (1) although the taxpayers kept accurate and complete records, the records were not used to modify the activity to make it profitable; (2) the taxpayers had net losses in nearly every year of the activity; (3) the losses offset substantial income from other sources; and (4) the taxpayer received significant personal pleasure from the activity. The court also noted that activities that include international travel have routinely been held to not be engaged in for profit. **Geyer v. Comm'r, T.C. Summary Op. 2013-90**.

MORTGAGE INTEREST. The taxpayers purchased a home from one of the taxpayers' parents and granted a mortgage to the parent in security for the purchase loan. The mortgage was not recorded. Five years later the taxpayers obtained a loan from a bank and granted a mortgage on the home to the bank. This mortgage was recorded. The taxpayers claimed a mortgage interest deduction for the interest on the loan for the first purchase and the interest on the second bank loan. The court found that the mortgage granted to the parent was not perfected, either by filing or other action. Thus, under Temp. Treas. Reg. § 1.163-10T(o)(1), the court held that the interest charged on the parent's mortgage was not qualified mortgage interest under I.R.C. § 163(h)(3)(B) because the mortgage was not perfected. **DeFrancis v. Comm'r, T.C. Summary Op. 2013-88**.

PASSIVE ACTIVITY LOSSES. The taxpayers, husband and wife, owned two rental properties, one in Washington and one in Colorado. The taxpayers resided and worked full time in California. The taxpayers claimed net losses from the rental properties for two tax years and the IRS disallowed the losses as passive. The taxpayer presented oral and written testimony that the husband worked on the rental properties for 832 hours per year, based on two hours per day on work days and six hours per weekend on maintenance, repairs, tenant problems, renovation, and miscellaneous administrative matters. The court discounted the evidence provided by the taxpayers because there was no written contemporaneous daily record maintained about the taxpayers' activities with the rental properties and the number of hours claimed plus the normal hours spent on the taxpayer's job exceeded a reasonable amount of time, essentially covering the husband's entire non-sleeping hours. The court held that the taxpayers failed to show that they spent more than 750 hours on the activity under I.R.C. § 469(c)(7)(B); therefore, the losses from the activity were barred from deduction in the current tax years as passive activity losses. **White v. Comm'r, T.C. Summary Op. 2013-86**.

PENSION PLANS. The rates below reflect changes implemented by the Moving Ahead for Progress in the 21st Century Act (*Pub. L. No. 112-141*). For plans beginning in November 2013 for purposes of determining the full funding limitation under I.R.C. § 412(c)(7), the 30-year Treasury securities annual interest rate for this period is 3.68 percent. The 30-year Treasury weighted average is 3.45 percent, and the 90 percent to 105 percent permissible range is 3.10 percent to 3.62 percent. The 24-month average corporate bond segment rates for November 2013, without adjustment by the 25-year average segment rates are: 1.31 for the first segment; 4.05 for the second segment; and 5.05 for the third segment. The 24-month average corporate bond segment rates for November 2013, taking into account the 25-year average segment rates, are: 4.94 for the first segment; 6.15 for the second segment; and 6.76 for the third segment. **Notice 2013-75, I.R.B. 2013-49**.

RETURNS. The taxpayers, husband and wife, filed a joint 2000 return within the time of a granted extension; however, the wife failed to sign the return. The IRS sent the return back to the taxpayers and requested the fully signed return be sent to the IRS within 20 days. The taxpayers failed to send the return back with both signatures as requested. The IRS filed a notice of deficiency and the taxpayers filed an altered copy of the return which had the wife's signature but had obscured several markings made by the IRS. The original return, without the wife's signature, was not filed until several years into an audit. The taxpayers signed several Forms 872-I, *Consent to Extend the Time to Assess Tax As Well As Tax Attributable to Items of a Partnership*, but now objected that the limitations period had expired, based on the original timely filed return. The court held that the taxpayers were equitably estopped from asserting the affirmative defense of the statute of limitations because the second return was a false representation of the original return due to the alterations and the attempt to show that the wife had signed the original return. **Reifler v. Comm'r, T.C. Memo. 2013-258**.

TRADE OR BUSINESS. The taxpayer owned a brokerage account with a brokerage business. The taxpayer filed Schedule C for the trading activities, claiming deductions for expenses related to the activity, including vehicle expenses, legal and professional fees, rent, utilities and office expenses. The IRS disallowed the deductions because the taxpayer's stock trading did not amount to a trade or business but was only investment activity. The online brokerage account was accessible by another person and the taxpayer did not provide evidence of which trades were executed by the taxpayer and which were executed by the other person. Although the court acknowledged that the amount of money involved in the trades was substantial, the lack of evidence as to who made the trades and the limited number of daily trades demonstrated that the trading activity was not substantial enough to create a trade or business; therefore, the court held that the trades were investment activity and the expenses deductible only on Schedule A and subject to the 2 percent of gross income limitation. **Nelson v. Comm'r, T.C. Memo. 2013-259**.

SAFE HARBOR INTEREST RATES

December 2013

	Annual	Semi-annual	Quarterly	Monthly
		Short-term		
AFR	0.25	0.25	0.25	0.25
110 percent AFR	0.28	0.28	0.28	0.28
120 percent AFR	0.30	0.30	0.30	0.30
		Mid-term		
AFR	1.65	1.64	1.64	1.63
110 percent AFR	1.81	1.80	1.80	1.79
120 percent AFR	1.98	1.97	1.97	1.96
		Long-term		
AFR	3.32	3.29	3.28	3.27
110 percent AFR	3.65	3.62	3.60	3.59
120 percent AFR	3.99	3.95	3.93	3.92

Rev. Rul. 2013-26, I.R.B. 2013-50.

WITHHOLDING TAXES. The defendants were the parents of the plaintiff. The defendants owned a company which had a branch in Texas managed by the plaintiff. The plaintiff purchased the branch from the defendants and the purchase agreement stated that the defendants were liable for all unpaid taxes and the plaintiff was liable for unpaid accounts payable. The plaintiff withheld information from the defendants that the branch had not paid taxes withheld from employees for two years. After the unpaid withheld taxes were discovered the plaintiff sued to have them declared the responsibility of the defendants. The court acknowledged that withheld employment taxes were generally called taxes but the withheld taxes were not a tax on the company but were a trust fund maintained by the company for payment to the IRS of the taxes on the wages of the employees. Thus, the court reasoned that the withheld taxes created a debt owned by the company and the withheld portion of the employee taxes were the responsibility of the plaintiff, although the company's share of the employment taxes was the liability of the defendants. **Bailey v. Rig-Up Electrical Services, Inc., 2013-2 U.S. Tax Cas. (CCH) ¶ 50,576 (S.D. Texas 2013)**.

LANDLORD AND TENANT

BREACH OF CONTRACT. The plaintiff leased farm land to the defendant under a three year lease. The parties had an existing lease in effect when the new lease was entered into but the new lease increased the annual cash rent for the farm. The lease was entered into in May 2010 and was to run from January 1, 2010 to December 31, 2012, with annual lease payments on April 1 of each year. The defendant argued that the existence of a lease payment prior to the entering of the lease made the lease ambiguous as to the date the rent was to be paid. The defendant argued that the rent was not due until April of 2011; however, the testimony showed that the defendant acknowledged throughout 2010 that the rent was owed, even though no payments were made. The trial court ruled for the plaintiff and entered judgment for the rent for 2010, reduced by amounts paid by the defendant for improvements made to the farm. The defendant appealed, arguing again that no lease payment was due under the lease. The defendant also argued that no rent was due in years in which planting was prevented by wet weather. The court disagreed, noting that the defendant had paid rent in past years from crop insurance proceeds received for prevented plantings. The appellate court affirmed the trial court, holding that, even if the rent was due at the end of each lease year, as is commonly practiced, the trial court judgment was proper in that no rent was paid in 2010. **Central Stone Co. v. Warning, 2013 Mo. App. LEXIS 1301 (Mo. Ct. App. 2013)**.

STATE TAXATION OF AGRICULTURE

CONSERVATION EASEMENT. The defendants owned 448.5 acres of farm land and applied for current use assessment and entered the property in a 10-year "conservation use assessment of agricultural property covenant agreement" under Georgia Code § 48-5-7.4. After entering the covenant, the defendants began a commercial grain business on a portion of the property. The plaintiff argued that the defendants breached the covenant when they started the commercial business on the property. The defendants countered that the grain business did not violate the covenant because the primary use of the property remained the production of agricultural products. The trial court ruled that the statute did not prohibit the starting of a business on land subject to a conservation covenant. The appellate court held that the trial court's reasoning was too broad in that starting a business which was not consistent with the production of agricultural products did violate the covenant. If the grain business was not detrimental to or conflicted with the farm operation, the business did not violate the covenant. The appellate court remanded the case to the trial court for determinations as to whether the grain business was detrimental to or in conflict with the property's primary purpose of agricultural production. **Terrell County Bd. of Tax Assessors v. Goolsby, 2013 Ga. App. LEXIS 879 (Ga. Ct. App. 2013)**.

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AGRICULTURAL TAX SEMINARS

by Neil E. Harl

Join us for expert and practical seminars on the essential aspects of agricultural tax law. Gain insight and understanding from one of the country's foremost authorities on agricultural tax law. The seminars will be held on two days from 8:00 am to 5:00 pm. On the first day, Dr. Harl will speak about farm and ranch income tax. On the second day, Dr. Harl will cover farm and ranch estate and business planning. Registrants may attend one or both days, with separate pricing for each combination. Your registration fee includes written or electronic (PDF) comprehensive annotated seminar materials and lunch. **Online registration is available at www.agrilawpress.com.** Here are the dates and city for the final seminars in fall 2013:

Dec. 16-17, 2013 - Adams State University, Alamosa, CO

The topics include:

First day

FARM INCOME TAX

New Legislation

Reporting Farm Income
- Constructive receipt of income
- Deferred payment and installment payment arrangements for grain and livestock sales
- Using escrow accounts
- Payments from contract production
- Development in SE tax for CRP payments
- Leasing land to family entity
- Items purchased for resale
- Items raised for sale
- Crop insurance proceeds
- Weather-related livestock sales
- Sales of diseased livestock
- Reporting federal disaster assistance benefits
- Gains and losses from commodity futures, including consequences of exceeding the $5 million limit

Claiming Farm Deductions
- Soil and water conservation expenditures
- Fertilizer deduction election
- Depreciating farm tile lines
- Farm lease deductions
- Prepaid expenses
- Preproductive period expense provisions
- Regular depreciation, expense method depreciation, bonus depreciation
- Paying rental to a spouse
- Paying wages in kind
- Section 105 plans

Sale of Property
- Income in respect of decedent
- Sale of farm residence
- Installment sale including related party rules
- Private annuity
- Self-canceling installment notes
- Sale and gift combined.

Like-Kind Exchanges
- Requirements for like-kind exchanges
- "Reverse Starker" exchanges
- What is "like-kind" for realty
- Like-kind guidelines for personal property
- Partitioning property
- Exchanging partnership assets

Taxation of Debt
- Turnover of property to creditors
- Discharge of indebtedness
- Taxation in bankruptcy

Second day

FARM ESTATE AND BUSINESS PLANNING

New Legislation

Succession planning and the importance of fairness

The Liquidity Problem

Property Held in Co-ownership
- Federal estate tax treatment of joint tenancy
- Severing joint tenancies and resulting basis
- Joint tenancy and probate avoidance
- Joint tenancy ownership of personal property
- Other problems of property ownership

Federal Estate Tax
- The gross estate
- Special Use Valuation
- Family-owned business deduction recapture
- Property included in the gross estate
- Traps in use of successive life estates
- Basis calculations under uniform basis rules
- Valuing growing crops
- Claiming deductions from the gross estate
- Marital and charitable deductions
- Taxable estate
- The applicable exclusion amount
- Unified estate and gift tax rates
- Portability and the new regulations
- Generation-skipping transfer tax
- Importance of the Rule Against Perpetuities

Gifts
- Reunification of gift tax and estate tax
- Gifts of property when debt exceeds basis

Use of the Trust

The General Partnership
- Small partnership exception
- Eligibility for Section 754 elections

Limited Partnerships

Limited Liability Companies
- Developments with passive losses
- Corporate-to-LLC conversions
- Eligibility for "small partnership" exception
- New regulations for LLC and LLP losses

Closely Held Corporations
- State anti-corporate farming restrictions
- Developing the capitalization structure
- Tax-free exchanges
- Would incorporation trigger a gift because of severance of land held in joint tenancy?
- "Section 1244" stock

Status of the Corporation as a Farmer
- The regular method of income taxation
- The Subchapter S method of taxation, including the "two-year" rule for trust ownership of stock
- Underpayment of wages and salaries

Financing, Estate Planning Aspects and Dissolution of Corporations
- Corporate stock as a major estate asset
- Valuation discounts
- Dissolution and liquidation
- Reorganization

Social Security
- In-kind wages paid to agricultural labor

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